HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

Writ Petition Nos.22809, 22810 & 26996 of 2006

Writ Petition No.22809 of 2006

Between:

M/s. Jayabheri Properties Pvt. Ltd.,
represented by its Director, Hyderabad
and others.

…Petitioners

And

State of Andhra Pradesh,
represented by its Principal Secretary,
Municipal Administration and Urban
Development Department,
Secretariat, Hyderabad and others.

...Respondents

Counsel for the petitioners: Sri D. Prakash Reddy, Senior Advocate, assisted by Sri E. Ajay Reddy.

Counsel for respondent No.1: Sri J. Sudheer, Special Government Pleader.

Counsel for respondent No.2: Sri T. Niranjan Reddy

Counsel for respondent Nos.3 and 4: Sri C.V. Mohan Reddy, Senior Advocate and Advocate General with Sri P. Rajagopala Rao.

Writ Petition No.22810 of 2006

Between:

M/s. Jayabheri Properties Pvt. Ltd.,
represented by its Director, Hyderabad
and others.

…Petitioners

And

State of Andhra Pradesh,
represented by its Principal Secretary,
Municipal Administration and Urban

Development Department,
Secretariat, Hyderabad and others.

...Respondents

Counsel for the petitioners: Sri D. Prakash Reddy,
Senior Advocate, assisted by
Sri E. Ajay Reddy.

Counsel for respondent No.1: Sri J. Sudheer,
Special Government Pleader.

Counsel for respondent No.2: Sri T. Niranjan Reddy

Counsel for respondent Nos.3
and 4: Sri C.V. Mohan Reddy,
Senior Advocate and Advocate
General with Sri P. Rajagopala
Rao.

Writ Petition No.26996 of 2006

Between:

T. Chittaiah and others.

…Petitioners

And

State of Andhra Pradesh,
represented by its Principal Secretary,
Municipal Administration and Urban
Development Department,
Secretariat, Hyderabad and others.

...Respondents

Counsel for the petitioners: Sri P. Sree Raghuram,
for Smt. D. Radha Rani.

Counsel for respondent No.1: Sri J. Sudheer,
Special Government Pleader.

Counsel for respondent No.2: Sri T. Niranjan Reddy

Counsel for respondent Nos.3
and 4: Sri C.V. Mohan Reddy,
Senior Advocate and Advocate
General with Sri P. Rajagopala
Rao.

:: O R D E R ::

October 01, 2007

Per G.S. Singhvi, C.J.

These petitions involve adjudication of the petitioners' challenge to Notifications dated 13.12.2005 issued under Section 4 (1) of the Land Acquisition Act, 1894 (for short, 'the 1894 Act') and draft declarations dated 14.6.2006 and 29.7.2006 issued under Section 6 of the 1894 Act for acquisition of land comprised in Survey Nos.176, 189, 190, 191, 197, 198, 199, 200, 201 and 202 of Narsingi Village, and Survey Nos.292, 293 and 294 of Poppalguda Village of Rajendranagar Mandal, Ranga Reddy District for a public purpose i.e. Outer Ring Road (ORR) Project.

History of ORR and related developments:

The Master Plan of the twin cities envisage the laying of Inner Ring Road, Intermediate Ring Road and Outer Ring Road as part of the main circulation system. In 1984, Hyderabad Urban Development Authority (for short, 'HUDA') undertook detailed study for the development of the Intermediate Ring Road, but nothing concrete appears to have been done in that regard. With the growth of the city and advent of I.T. industry and various other educational and industrial projects, it was felt that Outer Ring Road is required to be planned and undertaken to cater to the future needs. The matter was examined at various levels from 1997 onwards. Initially, HUDA prepared alignment for ORR in consultation with Municipal Administration and Urban Development, I.T., Industries and Commerce, and Roads and Buildings Departments, A.P. Industrial Infrastructure Corporation and Municipal Corporation of Hyderabad. In the year 2001, the Government of Andhra Pradesh initiated Outer Ring Road (ORR) Project. HUDA engaged M/s.MECON for feasibility study. The reports submitted by M/s.MECON envisaged laying of 109 km.

4-lane connectivity around the city. In July, 2004, the State Government re-examined the project and on the recommendations of the group of senior officers of the government and HUDA, the project was revised so that ORR may pass through open areas avoiding major settlements and habitations. The revised project was notified vide G.O.Ms.No.442, dated 19.10.2004.

In April, 2005, the ORR alignment was finalized with 159 km. road around the twin cities and Ranga Reddy District. The final alignment comprised of four sectors i.e. western, northern, eastern and southern. Thereafter, notifications dated 13.4.2005 and 21.4.2005 were issued under Section 4 (1) of the 1894 Act for acquisition of various parcels of land in different sectors. Since the ailment of

western sector was through Poppalguda, Vattinagulapalli, Janawada, Kolluru and Edulanagulapally villages, representations were made for change thereof on the premise that the road will be passing through hillocks, tanks and lakes. In the wake of these representations, the notified alignment was inspected by the officers of the technical wing of the ORR Project. They found that the alignment involves huge rock cutting, which will be uneconomical. M/s.Aarvee Associates, who was engaged for preparation of plan for Phase-I of ORR, proposed Trumpet Interchange at the T-Junction point where Phase-II joins the Phase-I of ORR. When the Trumpet Interchange was incorporated at Poppalguda Junction, it was found to be affecting the water body and school building. Therefore, an alternative alignment was considered by a committee comprising Principal Secretary, Infrastructure and Investment Department (IID), Managing Director, INCAP, Vice-Chairman, HUDA, Project Director, Chief Engineer and Special Collector, ORR, Secretary, IID, Land Acquisition Officer, HUDA, Executive Engineer, ORR and Planning Officer, HUDA. In the meeting of the committee, it was decided to examine various alternatives in the western sector of ORR. The committee inspected the alternatives twice on 6th and 19th October, 2005 and submitted report with the following observations:

a) The committee made a thorough examination of 3rd alternative via Kokapet, Narsingi. The Kokapet tank was marked with Full Tank Level and Maximum Water Level and it was found that slight portion of tank is affected in the alignment proposed.

b) The committee felt that it is an important tank, which needs to be further strengthened by the irrigation department, as the tank can be developed as water source and recreation purposes for Future Township in the area.

c) The 2nd alignment, which is the existing (Notified) alignment, passes through rocky portion at the end where junction has to be planned. There may be need to shift the junction downwards, which in turn affects certain institutions and water bodies.

d) The 1st alignment via Nanakram guda is comparatively free from environmental or technical difficulties. However, it passes through rocky terrain in certain portions. The impact of this in financial terms needs to be worked out before any inferences can be made.

e) The committee felt that all the three alternatives have designed by project engineers with sketchy data available. Because of constraint of time, detailed examination has not been conducted on all these alternatives. It was felt that a quick survey should be conducted based on following broad principles:

   i) The alignment should not affect any water body, as it is environmentally sensitive zone.

   ii) The alignment should involve minimal rock cutting and filling, as the terrain is uneven.

   iii) The alignment should involve minimal bends and curves keeping the

design standards of Outer Ring Road in mind."

The matter was then assigned to NSS Associates, who submitted report dated 15.11.2005 with the recommendation that the notified western alignment joining Phase-I at Poppalguda is not advisable and that an alternative alignment passing through Narsingi Village could be worked out in view of the following advantages:

- The geometrics of the proposed alignment and the terrain conditions are suitable for the design speed requirements. Further due to the availability of suitable gradient the Trumpet Interchange can easily be accommodated.
- The volume of rock cutting involved for already notified alignment is 6,78,097 cum. But whereas the rock cutting for the proposed one is only 56,600 cum. This also has consequences on cost and time for execution of the project.
- Extra Land Acquisition is required for the notified alignment because of cutting to a tune of 18 M and Embankment of the heights of about 8M. This is completely avoided in the suggested alignment.
- The cost comparison (Statement enclosed) clearly indicates that the overall cost for the stretch would be reduced by 18.06 crores (the cost of the proposed alignment is about 0.427% of the notified western alignment joining Phase-I (ORR) at Poppalguda alignment).
- Further the proposed alignment would also reduce the operating cost of vehicles.

After considering the report of NSS Associates, the State Government issued G.O.Rt.No.87, dated 2.11.2005 and constituted another committee (hereinafter referred to as 'the Alignment Committee') comprising the following:

1. Secretary to Govt., MA & UD … Chairman
2. Vice-Chairman, HUDA … Member
3. VC & MD, INCAP … Member
4. Collector, RR District … Member
5. Collector, Medak District … Member
6. Project Director & Spl. Collr., ORR … Member-Convenor

The Alignment Committee again studied the entire matter, considered the three alternative alignments, reports prepared by the expert group i.e. NSS Associates and the departmental committee, which inspected the area on 6th and 19th October, 2005 and recommended that the alignment suggested by NSS Associates be accepted. The relevant extracts of the committee's report insofar as it relates to the western sector alignment is reproduced below:

"**C. Western Sector Alignment:**

Originally the alignment has been proposed and notified in the western sector passing through Popalguda, Vattinagulapalli, Janawada, Kolluru and Edulanagulapally revenue villages. Pursuant to the objections raised by APPCB, alternative alignments in the region were examined and detailed discussions were held in the meeting held on 09.6.2005, wherein, the Principal Secretary, IID, Vice-Chairman & Managing Director,

INCAP, Managing Director, HMWS & SB, Member Secretary, APPCB, Vice-Chairman, HUDA and Project Director, ORR were present. The Member Secretary, APPCB informed that in light of Supreme Court judgments and G.O.111, MA, clearances for the project will be difficult if it is passing through the catchment area. A decision has been taken to approach the APPCB with alternative and complete technical details for the consideration and opinion of technical committee and in-principle clearance. After submission of the alternatives, the technical committee, APPCB in its meeting held on 22.7.2005 has given clearance to the alignment passing through the catchment for a length of 1.64 kms, as against 7.60 kms. of notified alignment.

However, certain difficulties arose in finalizing the alignment as opined by the Pollution Control Board. While the alignment could be earmarked within the catchment of Osman Sagar, but no suitable RoW was available to connect the alignment to Phase I. Due to presence of hillocks, water bodies and well-developed areas it was difficult to identify suitable RoW. Accordingly, Departmental Committee examined all possibilities and narrowed three alternatives including the notified alignment.

Alternative I

A reconnaissance survey has been conducted with the team of officers from Engineering, Planning and Revenue departments and alternate alignment plan is prepared. The new alignment entails slight modification in the western sector from Popalguda Village to Velimela Village, avoiding major extents of Osman Sagar catchment area. The intersection with Gachibouli segment (phase I) is also shifted by about 500 mts. so as to enable a straight alignment and avoid major hilly portions.

Due care has been taken to avoid all major structures, water bodies and habitations. Certain extents of hilly terrain are encountered, but these are unavoidable as the whole area is rocky. The proposed alignment avoids environmental or any other major objections. However, the alignment passes through the Financial District proposal and affects number of projects proposed in the area. An alternative to this alignment was worked out.

Alternative II

A completely hillock-free path was identified from Vattinagulapally South-east to Narsingi (5000 m from Gachibouli Jn.) The changes were suggested with a view to avoid the hillocks at Popalguda and Vattinagulapally East and further if the ORR joins the Link Road at Narsingi, the ORR would pass through about 45 Ac. of Govt. land in Sy.No.205 of Narsingi. The advantage in this alignment was that entire junction could be planned in government land available, thereby reducing the requirement of land acquisition.

But, certain objections were raised that this alignment affects the Kokapeta cheruvu. The Principal Secretary constituted a departmental committee comprising Managing Director, INCAP, Vice-Chairman, HUDA and Project Director, ORR to examine the three alternatives (above two and the existing one) and propose best possible alignment keeping financial, environmental and technical considerations in view.

Experts' Report:

The Departmental committee inspected the alignment on ground twice, on 6th & 19th October and made following observations: *The committee felt that all the three alternatives have been designed by project engineers with sketchy data available. Because of constraint of time detailed examination has not been conducted on all these alternatives. It was felt that a quick survey should be conducted based on the broad principles of environmental, technical and financial parameters.*

In view of the above facts, the committee felt that no inference could be drawn until detailed engineering study is conducted for all three alternatives. Accordingly, a study was conducted jointly by the Aarvi Associates and the NSS for all three alternatives in the Western Sector. The Report of the Experts is enclosed in the Annexure III.

The notified western alignment joining Phase-I (ORR) at Poppulguda is running through major hilly region of the heights ranging from 30 to 40 meters encompassing water bodies, aligning close to High tension power lines and running very close to the Vattinagulapally and the other villages which are notified in G.O.Ms.No.111 of M.A. & U.D. Dept. This alignment was finalized based on the HUDA base maps only without application of relevant aspects of road engineering principles and Geometry. This alignment when studied now in detail, it is observed that it suffers from basic infirmities like:

- Improper connectivity to the Phase-I ORR at Poppalaguda. The 'T' Junction Interchange cannot be accommodated here because of large level difference between the Joining Roads within the available space resulting into encroaching into water bodies.
- The longitudinal gradient that has to be adopted will be almost 1 in 50 for a stretch of 2.5 KM, which is not advisable for a design speed of 120 KMPH.
  - § For the alternative alignment now proposed the longitudinal gradient is working out to 1 in 80 which will be very comfortable for heavy vehicles resulting in less operating costs.
- The volume of rock cutting involved for already notified alignment is 6.76 lakhs cu. m. But, whereas the rock cutting for the proposed one is only 58,000 cu.m. This has consequences on cost and time for execution of the project.
- Extra land acquisition is required for the notified alignment because of cutting to a tune of 18 M and Embankment of the heights of about 8 M. this is completely avoided in the suggested alignment.

The Alignment Committee' observations on the Western Sector Alignment:

The alignment committee agreed with the inspection report of earlier committee and felt that there is a need to realign the ORR in this sector in compliance to the APPCB recommendations. The committee examined the possibility of avoiding the catchment area completely. However, in view developments coming up in the HI-Tech city area outside the catchment make it impossible to provide sufficient corridor in this area. Further, all the three options considered earlier are fret with technical and environmental problems. Accordingly, the committee proposed a new alignment, passing through the valley portion between Kokapeta and Vattinagulapally hillocks, outside the catchment area of Osman Sagar and shifting upward, away from the Osman Sagar tank, within the catchment area. Thereafter, the alignment passes through the foothills of Poppulguda village, avoiding the hilly section in the notified alignment. The alignment was taken as per the NSS report, which opined that it is not

possible to construct the ORR of required design standards through the rocky section in the notified alignment. This alignment solves the technical problems by avoiding the hilly terrain and also complies with the recommendations of the Pollution Control Board, by shifting away from the tank to a distance of 2 – 3 kms. However, the Committee recommended that DPR consultants should properly design the section of road falling in the catchment area, so as to avoid any obstruction to water flow into the tanks.

The Committee discussed all the options presented and decided that the final proposal is the best alternative as it avoids all the problems of other options and is in conformity with the recommendations of the Pollution Control Board. The distinctive advantages are:

- The alignment passes through the valley portion of Kokapet and Vattinagulapally hillock.
  - Eliminating the need for cutting rocks – protecting the rocks and natural escape of the area.
  - Financially the cost of building 8-lane road is substantially reduced.
- The alignment further avoids all water bodies in the area – as it is an environmentally sensitive area, there is a need to protect all water bodies.
- The alignment further avoids all important development projects coming up in the area – As IT center numbers of projects were affected in other alternatives.
- Cost of land acquisition is substantially lesser in this alignment – The experts' committee opined that this particular alignment yields net savings of Rs.40 crores in terms of land acquisition savings and design.
- The alignment is 4 -5 km. away from the Osman Sagar and covers minimal distance in the catchment.

Therefore, the committee agreed for this alignment. The committee also recommended that savings in the project should be utilized for conservation of the catchment area by taking up green belt along the corridor and also designing the ORR so as to further reinforce water inflows to the tank."

The State Government approved the report of the Alignment Committee and issued G.O.Ms.No.8, dated 12.12.2005 whereby the Project Director and Special Collector, Land Acquisition, Outer Ring Road Project (respondent No.3 herein) was permitted to notify the final alignment of the ORR.

The Facts:

For the sake of convenience, we have taken the facts from the record of Writ Petition No.22809 of 2006.

Petitioners – M/s.Jayabheri Properties Pvt. Ltd. and eight others purchased various parcels of land (total measuring Ac.29-28 gts.) in Survey Nos. 176, 189, 190, 191, 197, 198, 199, 200, 201 and 202 and their sub-divisions in Narsingi Village, Rajendranagar Revenue Mandal, Ranga Reddy District by different registered sale-deeds dated 11.2.2004, 25.2.2004, 6.10.2004, 8.10.2004, 13.10.2004, 4.2.2005, 28.2.2005 and 6.4.2005. Respondent No.3, in exercise of the power delegated to him,

issued Notification No.ORR/1098/2005, dated 13.12.2005 in Form-2-A under Section 4 (1) of the 1894 Act for acquisition of Ac.31-33 gts. of land for a public purpose i.e. formation of the ORR. First two paragraphs of that notification are extracted below:

"THE ANDHRA PRADESH GAZETTE
EXTRAORDINARY
PUBLISHED BY AUTHORITY

O.R.R.No.87 HYDERABAD Thursday, 21st April 2005
No.C/121/2005

FORM 2 – A

NOTIFICATION UNDER SECTION 4 (1) OF THE LAND ACQUISITION ACT, 1894

Whereas it appears to the Government of Andhra Pradesh that the lands specified in the schedule below and situated in the **Poppalguda village, Rajendra Nagar Mandal, Ranga Reddy District** are need for a public purpose, to wit, for formation of Outer Ring Road. Notice to that effect is hereby given to all whom it may concern in accordance with the provisions of sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (Central Act 1 of 1894); as amended by the Land Acquisition (Amendment) Act, 38 of 1923 and the Land Acquisition (Amendment) Act of 1984.

Now, therefore, in exercise of the powers conferred by sub-section (2) of Section 4 of the said Act, the Governor of Andhra Pradesh hereby authorizes the Special Deputy Collector, Land Acquistiion, Unit – VII, Outer Ring Road, Hyderabad Urban Development Authority, Hyderabad, his staff and workmen, to exercise the powers conferred by the said sub-section and under clause (c) of Section 3 of the said Act, the Governor of Andhra Pradesh hereby appoints the Special Deputy Collector (L.A.), Unit-VII, Outer Ring Road, HUDA, Hyderabad to perform the functions of a Collector under Section 5-A of the said Act.

… … …
… … …

Sd/- PEEYUSH KUMAR, IAS, Project Director & Special Collector (L.A.)
Outer Ring Road Project, HUDA, Tarnaka, Hyderabad."

Since the above reproduced notification covered major portions of the land purchased by the petitioners in Survey Nos. 176, 189, 190, 191, 197, 198, 199, 200, 201 and 202, they filed objections on 12.1.2006. Respondent No.3 issued notice dated 12.7.2006 and fixed 17.7.2006 as the date of enquiry under Section 5-A of the 1894 Act. The petitioners appeared through their advocate and filed documents. The arguments were heard on 21.7.2006. Thereafter, draft declaration dated 29.7.2006 was issued under Section 6 and the same was published in the Andhra Pradesh Gazette Extra-Ordinary of the same date. The relevant portion of the draft declaration is also extracted below:

"FORM 5 – A

DRAFT DECLARATION UNDER SECTION 6 OF THE LAND ACQUISITION ACT

Under Section 6 of the Land Acquisition Act, the Government of Andhra Pradesh hereby declare that the lands specified in the schedule below situated at **Narsingi** Village of **Rajendranagar** Mandal, **Ranga Reddy** District and measuring **Ac.23-23 gts.** be the same a little more or less, is needed for a public purpose, to wit, for formation of Outer Ring Road. Under Section 3 and 7 of the Act, the Special Deputy Collector, Land Acquisition, Unit-VII, Outer Ring Road Projecdt, Hyderabad Urban Development Authority, Tarnaka, Hyderabad is appointed to perform the functions of the Collector under the Act and directed to take order for the acquisition of the said land. A plan of the land is kept in the Office of the Special Deputy Collector, Land Acquisition Unit-II, Outer Ring Road Project, HUDA, Tarnaka, Hyderabad and may be inspected at any time during office hours."

… … …

PEEYUSH KUMAR, I.A.S.
Project Director, Outer Ring Road,
& Special Collector (L.A.), HUDA,
Tarnaka, Hyderabad."

The petitioners filed writ petition sometime in the month of October 2006 and questioned the acquisition of their land by making the following assertions:

1) that after undertaking detailed survey, respondent No.3 issued notifications dated 21.4.2005 under Section 4 (1) of the 1894 Act for acquisition of various extents of land in different villages for the purpose of formation and laying of ORR around the cities of Hyderabad and Secunderabad and Ranga Reddy District;

2) that the aforementioned notifications were issued keeping in view the scientific alignment of the road, the nature of land i.e. whether the land was plain or with undulations, hillocks, rocks etc., availability of government land and suitability of the land proposed to be acquired;

3) that the proposed acquisition did not cover the land of Narsingi village;

4) that with a view to benefit some influential persons, whose land would have been covered by the original alignment of the road, respondent No.3 and others arbitrarily manipulated the change of alignment and issued notification dated 13.12.2005;

5) that the land covered by Survey No.291 is earmarked as a water body and Survey No.292 is a greenbelt touching the water body;

6) that they filed several objections against the proposed acquisition of land, but without considering the same, respondent No.4 arbitrarily recommended finalization of the acquisition and respondent No.3 mechanically approved those recommendations, and

7) that the report of Alignment Committee and papers pertaining to the

change of alignment were not supplied to them despite an application made under the Right to Information Act, 2005.

The petitioners further averred that with a view to save the lands belonging to men in power, the ruling party leaders, their relatives, well-wishers and kith and kin and to include the land belonging to political enemies of the ruling party, the alignment of ORR had been changed without any proper survey and scientific analysis. They claimed that the revised alignment would convert the straight road into a serpentine road and would defeat the very purpose of the project. For better appreciation of the grievance of the petitioners, paragraphs 27, 32, 33 and 34 of the affidavit of Shri Kishore Duggirala (petitioner No.3) are reproduced below:

27. I respectfully submit that the acquisition of lands belonging to us under the guise of changed alignment is highly illegal, arbitrary and in violation of constitutional provisions and further the alignment of the Outer Ring Road from time to time arbitrarily changed, twisted and turned as per the whims and fancies of the Authorities without any proper survey and scientific analysis. It further appears that the alignment of the road is now changed arbitrarily only:

a) to save the lands belonging to men-in-power, the ruling party leaders, their relatives, well-wishers and kith and kin from the acquisition for the purpose of formation of Outer Ring Road.

b) to include the lands belonging to political enemies of the ruling party for acquisition without any proper survey and scientific analysis.

c) to see that the alignment of the Outer Ring Road is made in such a way that the same passes abutting and nearby to the lands owned by the men-in-power, ruling party leaders, their well-wishers and kith and kin to boost up their land value.

32. I respectfully submit that as per the earlier alignment covred by the lands proposed for acquisition in the Notificatiosn issued under Section 4 (1) of the Act dated 21.4.2005, the 2nd phase of Ring Road which commences from Shamshabad and passing around the Twin Cities and ultimately culminates into the then junction at Poppalguda which is in the midst of the Express Highway and the said Express Highway from Gachibowli to Shamshabad was perfectly in straight alignment and also the then proposed 2nd phase of Ring Road passing through Vattinagulapally and culminating into the then junction of Poppalguda on the Express Highway was also in perfectly straight alignment and thus having a exactly "T" shape and as per the earlier straight alignment after Vattinagulapally onwards, the Outer Ring Road passes through the land in Sy.Nos.300, 302, 299, 305, 306, 309, 210, 311, 313, 314, 315, 341 and 342 of Poppalguda Village and culminates into the then proposed Poppalguda junction on the Express Highway. Hence, earlier the respondents have issued all the Notifications dated 21.4.2005 bearing ORR No.87, No.C/121/2005, ORR No.86, No.C/120/2005 and ORR No.85, No.C/199/2005 proposing to acquire the said lands in Survey Nos.302 to 342 of Poppalguda village which was in straight alignment and which proposes to culminate

into the then Poppalguda junction of the Express Highway i.e. Ring Road Phase-I.

33. I respectfully submit that the respondents have illegally and without any reason, while succumbing to the pressures brought upon by the land owners of Survey Nos.301 to 342 of Poppalguda village, to save their lands fromn the then proposed acquisition and also to get the Ring Road abutting the Sy.No.109 etc. of Kokapet village where the 2nd respondent proposed for auction of lands under the name and style "Golden Mile Project" and to boost up auction price and also to help the increase of land prices in Kokapet village belonging to the men in power, persons having allegiance to the ruling party, arbitrarily twisted, turned and shifted the straight road passing from Vattinagulapally to the Poppalguda junction on Express Highway to the present alignment while shifting and twisting the road rightwards in irregular shape passing through the Sy.Nos.300, 299, 297, 296, 295, 294, 293, 292, 291 (water body) of Poppalguda village and Sy.Nos.182, 183, 187, 189, 176, 197, 198, 199, 200, 201, 202, 190, 191, 192, 205 of Narsingi village and thus shifted the erstwhile junction of Poppalguda Express Highway junction to that of Narsingi village and thereby the lands belonging to the petitioners in Sy.Nos.176, 189, 190, 191, 197, 198, 199, 200, 201 & 202 of Narsingi Vilalge, which are subject matter of this writ petition are proposed for acquisition under the new Notification under Section 4 (1) of the Act and which culminated into an impugned Draft Declaration under Section 6 of the L.A. Act. Apart from the lands in subject Narsingi Village belonging to the petitioners herein which are the subject matter of the present writ petition, as stated supra in view of the arbitrary shifting of the Outer Ring Road, the lands belonging to some of the petitioners herein and others in Sy.Nos.292 to 294 of Poppalguda Village were also sought to be acquired as per the new alignment, which is the subject matter of another writ petition filed herewith.

34. I respectfully submit that the respondents herein have twisted, turned and shifted the alignment of the Ring Road and also shifted junction from Poppalguda junction to Narsingi junction on the Express Highway by disturbing the then straight alignment to that of serpentine alignment with several twists and turns only to target the lands belonging to the petitioners for acquisition since the petitioner No.2 is belonging to and a sympathizer of the opposition party viz., Telugu Desam. And thus in such an illegal task, the respondents even proposed the road as per the new alignment through the water body i.e. Sy.No.291 of Poppalguda village. Hence, it is quite evident from the above narrated facts that in order to save the lands from acquisition of men in power, their followers and to boost up the land prices of Kokapet Village, the respondents herein have not only arbitrarily and illegally, without any scientific survey and without sufficient reasons, shifted and twisted the road alignment to pass through the lands of the petitioners and also gone to the extent of disturbing the water body, which demonstrates the illegal and arbitrary action of the respondents. The respondents on the other hand are the custodian and protector of the water bodies which ultimately preserve the water, protects the nature, natural resources and environment.

Along with the writ affidavit, the petitioners placed on record copy of the land use certificate dated 16.1.2006 in respect of Survey No.291 of Poppalguda Village and two maps showing the original and revised alignment of the ORR.

In the counter-affidavit dated 28.11.2006 filed by him,

Shri Peeyush Kumar, Project Director and Special Collector, ORR Project, detailed the background of the ORR Project and then averred that the information sought by the petitioners vide application dated 14.8.2006 i.e. copy of G.O.Ms.No.8, dated 12.12.2005 was supplied to them and draft declaration was issued after deciding the objections filed by them. According to

Shri Peeyush Kumar, the change in alignment was necessitated because the original alignment, which was finalized in April, 2005, would have required laying of road through hillocks and water bodies and it was felt that execution thereof could be uneconomical and unworkable. In para 6 of his affidavit, Shri Peeyush Kumar denied the petitioners' assertion that as per the revised alignment, the road passes through water body in Survey No.291. According to him, Survey No.291 is not covered by water body and that it is a patta land. In support of this assertion, the deponent placed on record, letter dated 23.12.2006 of Mandal Revenue Officer.

Shri Peeyush Kumar also denied the assertion made by

Shri Kishore Duggirala that the alignment of ORR has been changed to favour influential persons who have connections in power corridors and with a view to harm the sympathizers of the opposition party and averred that decision in this regard was taken on the basis of the reports of the experts and officers of various departments of the government and HUDA.

The arguments were heard on 14.12.2006 and again on 15.12.2006, on which date the Court expressed the view that it will be in the interest of justice that further opportunity of hearing is afforded to the petitioners by Special Deputy Collector, Land Acquisition, ORR Project (respondent No.4 herein) and a fresh report is submitted for consideration by the competent authority i.e. respondent No.3. The learned Advocate General appearing for the respondents agreed that another opportunity can be given to the petitioners through their representatives or advocates. Thereupon, the Court gave the following directions:

1) The petitioners shall submit their further written objections on or before 19.12.2006 to Special Deputy Collector (Land Acquisition), ORR
2) The officer concerned shall hear the petitioners through their representatives or advocates on 23.12.2006. The representative of Hyderabad Urban Development Authority shall also be free to make submissions in support of the acquisition of land.
3) The Special Deputy Collector (Land Acquisition), ORR shall submit his report to the Project Director and Special Collector (Land Acquisition), ORR, latest by 26.12.2006. The latter shall record his decision on that very day or the next day. The same shall be produced before the Court on 28.12.2006 on which date the cases shall be taken up for further hearing.

In furtherance of the direction given by the Court, the petitioners filed further objections on 19.12.2006 and requested for joint inspection of the so-called water bodies in Survey Nos.291, 298, 299 and 300 of Poppalaguda Village, Rajendranagar Mandal. On 23.12.2006, respondent No.4 heard the advocate for the petitioners and submitted report to respondent No.3. Thereafter, respondent No.3 passed order dated 26.12.2006 whereby he rejected the objections filed by the petitioners.

As a sequel to the above, the parties filed WPMP Nos.34763 of 2006, 898 of 2007, 1454 of 2007, 1455 of 2007, 2876 of 2007, 5464 of 2007 and 5490 of 2007 for filing additional affidavits and documents. The same were allowed by the Court. The particulars of these affidavits and documents are as under:

1) In the affidavit filed by him on 26.12.2006, Shri Kishore Duggirala (petitioner No.3) reiterated that despite their request, the respondents did not arrange for joint inspection of water bodies in Survey Nos.291, 298, 299 and 300 of Poppalguda Village and, therefore, they approached Executive Engineer, I & CAD Department, IB Division, Hyderabad, who vide his letter dated 23.12.2006 confirmed the existence of water bodies in those survey numbers.

2) Shri G. Hanmanth Reddy, Special Deputy Collector (Land Acquisition), Unit-VII, ORR Project filed affidavit dated 3.1.2007 and placed on record copies of objections dated 19.12.2006 filed by the petitioners, the remarks furnished by the Land Acquisition Officer to the objections of the petitioners, order dated 26.12.2006 passed by respondent No.3, letter dated 23.12.2006 of Deputy Collector and Mandal Revenue Officer and another letter dated 23.12.2006 sent by Executive Engineer, North Tanks Division, Secunderabad to respondent No.4 along with xerox copy of S.I. sheet No.56/K/7/NW.

3) Shri Kishore Duggirala (petitioner No.3) filed affidavit dated 19.1.2007 wherein he reiterated the existence of water bodies in Survey Nos.291, 298, 299 and 300 of Poppalguda Village and averred that due to change of alignment, the road length has been increased by 720 m. and, on that account, the respondents will have to incur additional expenditure. Along with this affidavit, he filed copy of letter dated 23.12.2006 sent by Shri D. Narsimha Reddy, Executive Engineer, I & CAD, IB Division, Hyderabad to petitioner No.1 and a copy of the site plan.

4) Along with WPMP No.1455 of 2007, Shri Kishore Duggirala filed yet

another affidavit dated 19.1.2007 and reiterated the objection of the petitioners against the change of alignment and averred that even though the water bodies exist in Survey Nos.291, 298, 299 and 300 of Poppalguda Village, the reports of the expert group do not make a mention of the same and that order of respondent No.3 is silent regarding the land use certificate dated 16.1.2006 issued by HUDA in respect of Survey No.291.

5) Thereafter, the respondents filed WPMP No.2876 of 2007 for taking on record, affidavit dated 6.2.2007 of Shri Peeyush Kumar, who, along with his affidavit, placed on record letter dated 16.1.2007 sent by Secretary to Government, I & CAD (Service-IV) whereby Engineer-in-Chief (AW) was required to re-examine the land covered by Survey No.291 of Poppalguda Village and order dated 30.12.2006 passed by Engineer-in-Chief placing Shri D. Narsimha Reddy, Deputy Executive Engineer under suspension for furnishing false report relating to Survey Nos.291, 292, 293, 294, 295, 296 and 297 of Poppalguda Village.

6) Shri Kishore Kumar Duggirala filed two more affidavits dated 1.3.2007 along with two documents including the copy of gazette notification dated 6.10.2001 issued under the Registration Act, 1908 (for short, 'the 1908 Act').

The facts of the other petitions are similar. In Writ Petition No.22810 of 2006, the petitioners have challenged Notification dated 13.12.2005 issued under Section 4 (1) and draft declaration dated 14.8.2006 issued under Section 6 to the extent the same relates to acquisition of the land measuring Ac.23-14 gts. comprised in Survey Nos.292, 293 and 294 of Poppalguda Village, Rajendranagar Mandal, Ranga Reddy District, which they purchased by different sale-deeds dated 28.3.2005. The grounds set out in the writ petition for questioning the impugned notification and declaration are identical to those taken in Writ Petition No.22809 of 2006.

In Writ Petition No.26996 of 2006, the petitioners have challenged acquisition of the land comprised in Survey Nos.176, 189, 190, 191, 197, 198, 199, 200, 201 and 202 of Narsingi Village, Rajendranagar Mandal, Ranga Reddy District. The facts of this case and the grounds for challenging the acquisition are almost identical to those taken in the other two writ petitions except that through WPMP No.10003 of 2007, which was allowed on 19.4.2007, the petitioners have challenged Notification dated 13.12.2005 issued under Section 4 (1) and draft declaration dated 29.7.2006 issued under Section 6 on the ground that notification gazetted under G.O.Ms.No.459, dated 8.4.2005 does

not speak of conferment of the powers of the District Collector on respondent No.4 for exercise of such powers under Sections 4, 5-A, 6 and 17 (4) of the 1894 Act. Another plea taken by the petitioners is that without obtaining prior permission under the Andhra Pradesh Agricultural Lands (Conversion for Non-Agricultural Purposes) Act, 2006 (for short, 'the 2006 Act'), the respondents cannot acquire the land.

The aforementioned additional grounds have been controverted by the respondents through affidavit dated 23.4.2007 filed by Shri G. Hanmanth Reddy, Special Deputy Collector (Land Acquisition), Unit-VII, ORR Project. In paragraph 4 of his affidavit, Shri Hanmanth Reddy has referred to G.O.Ms.No.442, M.A. dated 19.10.2004 issued by the State Government whereby a separate unit consisting of Special Collector (Land Acquisition) along with Special Deputy Collector was constituted to finalise the land acquisition proceedings. He has also referred to G.O.Ms.No.459, dated 8.4.2005 issued under Section 3-A of the 1894 Act whereby the Special Collector was authorized to perform the functions on behalf of the State Government. As regards the alleged violation of the provisions of the 2006 Act, Shri Hanmanth Reddy has averred as under:

"5. The contention of the petitioner that A.P. Agricultural Land (Conversion for Non-Agricultural Purposes) Act, 2006 (Act 3 of 2006) is violated as D.N. and D.D. were issued without obtaining prior permission under the said Act is incorrect and untenable. Under the said Act no agricultural lands in the State can be put to non-agricultural purpose without prior permission of the Competent Authority. The owner or the occupier of the agricultural land shall make application for conversion of the agricultural land to non-agricultural purpose by paying the conversion fees. The lands of the petitioner are under acquisition proceedings and the government has not become the owner of the said lands. Section 3 (1) of the Act contemplates the prior permission from the Competent Authority required to be taken when the agricultural land is put to non-agricultural purpose. The government after becoming the owner of the land after the conclusion of the acquisition proceedings would be putting the said lands for non-agricultural purpose. Under Section 7 (a), lands owned by the State Government are not covered under Act 3 of 2006. After the conclusion of the acquisition proceedings and upon the government becoming the owner of the said lands, the government need not take permission for conversion of the lands from agricultural to non-agricultural purpose from the Competent Authority. In this view of the matter, the contention of the petitioner is misconceived and deserves to be rejected. Even otherwise, it is submitted that the Apex Court has held that government after acquiring the land, and before using it for any purpose not contemplated in the zoning regulations can seek change of land use and it is not necessary to first obtain such change of land use before acquiring it."

The Arguments:

Sarvasri D. Prakash Reddy, Senior Counsel appearing for the petitioners

in Writ Petition Nos.22809 and 22810 of 2006 and

Shri P. Sri Raghuram appearing for the petitioners in Writ Petition No.26996 of 2006 argued that the impugned acquisition is liable to be nullified on the ground of violation of Section 5-A of the 1894 Act and arbitrary and mala fide exercise of power. Shri D. Prakash Reddy extensively referred to the affidavits filed in Writ Petition No.22809 of 2006 and argued that the manner in which the objections filed by the petitioners on 12.1.2006 were disposed of by respondent No.3 shows total non-application of mind by the officer concerned and the same continues to be the position despite the fact that in terms of directions given by the Court on 15.12.2006, the officer concerned was required to objectively analyse the original as well as additional objections and decide the same by recording reasons. Learned counsel further argued that the rejection of the objections vide order dated 26.12.2006 is liable to be nullified because respondent No.3 solely relied on the remarks recorded by the Land Acquisition Officer and the material collected at the back of the petitioners. Learned counsel submitted that repeated reference to G.O.Ms.No.8, dated 12.12.2005 in the order of respondent No.3 clearly shows that he considered the objections of the petitioners with a closed mind and was overawed by the fact that the government has already decided to change the alignment. Shri Reddy submitted that if the decision taken by the State Government to approve the report of the Alignment Committee was to be treated final, then the submission of objections by the petitioners and consideration thereof was nothing but an empty formality. In support of this argument, learned counsel relied on the judgment of the Supreme Court in **Hindustan Petroleum Corpn. Ltd. v. Darius Shapur Chenai**[1]. Learned Senior Counsel heavily relied on the entry contained on page 52 of Gazette Notification dated 6.10.2001 vide which G.O.Ms.No.647, Revenue (Registration-I), dated 3.10.2001 issued under Section 22-A of the 1908 Act, as amended by the Registration (Andhra Pradesh) Amendment Act, 1999, was published and letter No.DB/HD/2006-2007/1570, dated 23.12.2006 sent by Executive Engineer, I & CAD, IB Division, Hyderabad to petitioner No.1 to show that as early as in 2001, the land comprised in Survey No.291, which was classified as “sikham patta”, was “kunta” (water body) and argued that the proposed ORR cannot be constructed through a water body. Shri Reddy submitted that not only Survey No.291, but Survey Nos.298, 299 and 300 of Poppalguda Village are also water bodies and, therefore, the acquisition is liable to be annulled in its entirety. Learned Senior Counsel then argued that the

contents of letter dated 23.12.2006 written by Executive Engineer, I & CAD to petitioner No.1 cannot be brushed aside because similar letter was sent by him to respondent No.4 in response to the latter's communication No.81/LA/ORR/Unit-VII/2005 dated 9.11.2006 (Ex.P.43). He further argued that letter No.DB/EE/NTD/06/ ORR/761, dated 23.12.2006 sent by Executive Engineer, North Tanks Division, Secunderabad to respondent No.4 purporting to negate the existence of water body cannot be relied because the same was stage-managed by the officers of HUDA. He lastly argued that the change of alignment of the ORR is liable to be quashed because the entire exercise was undertaken with a view to save the land of some influential persons who are connected with the party in power and the land of the petitioners was acquired because they are sympathisers of the opposition party in the State.

Shri Reddy emphasized that those who had purchased the land at throw away prices were felt threatened by acquisition of the land and, therefore, they manipulated the entire apparatus of the government and HUDA to ensure that the alignment is changed and their land is released from acquisition.

Shri P. Sri Raghuram reiterated the additional grounds taken in Writ Petition No.26996 of 2006 and argued that the entire exercise of acquiring the land for the purpose of construction of the ORR is liable to be declared void because the Special Deputy Collector has not been delegated with powers under Section 3-A of the 1894 Act and he did not have the power to issue notification under Section 4 (1). He further argued that without getting the agricultural land converted in accordance with the procedure prescribed under the 2006 Act, the respondents cannot execute ORR project.

Shri C.V. Mohan Reddy, learned Advocate General submitted that draft declaration was issued after giving effective opportunity of hearing to the petitioners and objectively considering the objections raised by them. He referred to the observations made by the Land Acquisition Collector on the objections raised by the petitioners and order dated 26.12.2006 passed by respondent No.3 and argued that in exercise of the power of judicial review, this Court cannot exercise appellate jurisdiction qua the decision taken by respondent No.3. Learned Advocate General relied on the observations made by the Division Bench in Writ Appeal No.466 of 2006 – Ch. Kiron and others v. Project Director and Special Collector, Land Acquisition, Hyderabad and others, decided on 28.4.2006 and submitted that the acquisition proceedings should not be annulled on the ground that respondent No.3 has not passed an order like a

judgment of the Court. He also referred to the report of the Alignment Committee and G.O.Ms.No.8, dated 12.12.2005 to show that the alignment approved in April, 2005 had to be changed because, as per that alignment, the road was to pass through hillocks, water bodies etc. and it would have been highly uneconomical to construct the road by cutting huge hillocks and rocks. Learned Advocate General submitted that two expert groups appointed by the government have examined various technical aspects of the project and recommended change of alignment and the revised alignment cannot be nullified simply because it would affect the land of the petitioners. As regards apparently contradictory communication sent by Executive Engineer, I & CAD, and Executive Engineer, North Tanks Division, Secunderabad on the same date i.e. 23.12.2006, the learned Advocate General submitted that letter No.1570 was manipulated by the petitioners from an officer who was due to retire and who did not visit the site before certifying the existence of water body in Survey Nos.291, 298, 299 and 300 of Poppalguda Village. Another argument of the learned Advocate General is that none of the petitioners are concerned with Survey Nos.291, 298, 299 and 300 of Poppalguda Village and, therefore, they do not have the locus to challenge the acquisition proceedings on the ground that the ORR will pass through water body. In support of this argument, learned Advocate General relied on the judgment of the Supreme Court in **Delhi Administration v. Gurdip Singh Uban**[2]. He also controverted the additional submission of Shri P. Sri Raghuram and relied on the order of the learned Single Judge in **Kilarapu Satyavati v. District Collector**[3] and the judgment of the Division Bench in Writ Appeal No.112 of 2006 and argued that respondent No.3 was competent to exercise the power of the District Collector under Section 4 (1) of the 1894 Act. In the end, the learned Advocate General argued that the impugned acquisition should not be nullified on the ground of mala fides because, except making vague and bald assertions that the alignment had been changed to favour some influential persons, who are connected with the party in power, the petitioners have not produced any tangible evidence to substantiate the same.

From the pleadings of the parties and arguments of the learned counsel, the following questions arise for consideration:

1) Whether or not the petitioners were given effective opportunity of hearing in terms of Section 5-A (2) of the 1894 Act and whether the consideration of objections filed by them is vitiated due to non-application of mind?

2) Whether the impugned acquisition is vitiated due to mala fides and arbitrariness?

3) Whether respondent No.3 was competent to issue notification under Section 4 (1) and draft declaration under Section 6 of the 1894 Act?

4) Whether the acquisition of the land in question is ultra vires the provisions of the 2006 Act?

Finding:

Re: Q.No.1

Section 5-A of the 1894 Act, which provides for hearing of objections filed by the interested persons and consideration thereof, reads as under:

Section 5-A of the Land Acquisition Act, 1894

5-A. Hearing of objections.

(1) Any person interested in any land which has been notified under section 4, sub-section (1), as being needed or likely to be needed for a public purpose or for a Company may, within thirty days from the date of the publication of the notification, object to the acquisition of the land or of any land in the locality, as the case may be.

(2) Every objection under sub-section (1) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard in person or by any person authorised by him in this behalf or by pleader and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, either make a report in respect of the land which has been notified under section 4, sub-section (1), or make different reports in respect of different parcels of such land, to the appropriate Government, containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of that Government. The decision of the appropriate Government on the objections shall be final.

(3) For the purposes of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act.

An analysis of the above reproduced provision shows that any person interested in the land, which is proposed to be acquired for a public purpose or for a company, can, within 30 days after the issue of notification, file objection in writing. The Collector, to whom the objections are made, is obliged to give the objector an opportunity of being heard, either in person or through some other authorized person or pleader, and then make report in respect of the land notified under Section 4 (1).

Section 5-A has become subject matter of several judicial pronouncements, some of which are - **Munshi Singh v. Union of India**[4], **State of Punjab v. Gurdial Singh**[5], **Om Prakash v. State of U.P.**[6], **Union of India**

v. Mukesh Hans[7], **Union of India v. Krishan Lal Arneja**[8], **Hindustan Petroleum Corn. Ltd. v. Darius Shapur Chenai** (supra), and **Ram Krishan Mahajan v. Union Territory of Chandigarh**[9].

In **Hindustan Petroleum Corpn. Ltd. v. Darius Shapur Chenai** (supra), the Supreme Court referred to large number of earlier judgments and laid down the following propositions:

1) Section 5-A of the Act is in two parts. Upon receipt of objections, the Collector is required to make such further enquiry as he may think necessary whereupon he must submit a report to the appropriate Government in respect of the land which is the subject matter of notification under Section 4(1) of the Act. The said Report would also contain recommendations on the objections filed by the owner of the land. He is required to forward the records of the proceedings held by him together with the report. On receipt of such a Report together with the records of the case, the Governments is to render a decision thereupon. It is now well-settled in view of a catena of decisions that the declaration made under Section 6 of the Act need not contain any reason.
2) Considerations of the objections by the owner of the land and acceptance of the recommendations by the Government, it is true, must precede a proper application of mind on the part of the Government. As and when a person aggrieved questions the decision making process, the court in order to satisfy itself as to whether one or more grounds for judicial review exists, may call for the records whereupon such records must be produced.
3) The State is required to apply its mind not only on the objections filed by the owner of the land but also on the Report which is submitted by the Collector upon making other and further enquiries therefor as also the recommendations made by him in that behalf. The State Government may further inquire into the matter, if any case is made out therefore, for arriving at its own satisfaction that it is necessary to deprive a citizen of his right to property. It is in that situation production of records by the State is necessary.

In that particular case, their Lordships of the Supreme Court noted that the counter-affidavit was filed by a Special Deputy Collector after 14 years of the institution of the writ petition and observed that he was not the Collector who made enquiry under Section 5-A and gave opportunity of hearing to the owner of the land. The Supreme Court then noted that in response to the direction given by the High Court, Principal Secretary to the Government affirmed an affidavit that records are not readily traceable and observed that in a situation of this nature, the Court expects that the authorities of the State would take due care and caution in preserving the records in relation whereto a lis is pending before a Court of law and held that the finding recorded by the High Court that enquiry was not made in consonance with Section 5-A was correct.

In **Tej Kaur v. State of Punjab**[10], the Supreme Court considered the

question whether effective opportunity of hearing was afforded to the interested persons and held:

"It is true that Section 5-A inquiry is an important stage in the acquisition proceedings and a person who is aware of Section 4(1) notification can raise objection to the effect that his property is not required for acquisition and he is also at liberty to raise the contention that the property is not required for any public purpose. It is also true, that the objector must also be given a reasonable opportunity of being heard and any violation of the procedure prescribed under S. 5-A would seriously prejudice the rights of the owner of the property whose land is sought to be acquired. In the instant case, however, it is pertinent to note that the Collector had, in fact, conducted the Section 5-A inquiry, though there is no material on record to show that the appellants were heard in person. The facts and circumstances clearly show that the objection raised by the appellants was considered and partly allowed by the Collector."

In **Delhi Administration v. Gurdip Singh Uban** (supra), the Supreme Court considered the nature of enquiry envisaged by Section 5-A and observed:

1) Now objections under Section 5A, if filed, can relate to the contention that (i) the purpose for which land is being acquired is not a public purpose (ii) that even if the purpose is a public purpose, the land of the objector is not necessary, in the sense that the public purpose could be served by other land already proposed or some other land to which the objector may refer or (iii) that in any event, even if this land is necessary for the public purpose, the special fact-situation in which the objector is placed, it is a fit case for omitting his land from the acquisition. Objection (ii) is personal to the land and objection (iii) is personal to the objector.
2) Now in the (ii) and (iii) type of objections, there is a personal element which has to be pleaded in the Section 5A inquiry and if objections have not been filed, the notification must be conclusive proof that the said person had "waived" all objections which were personal and which he could have raised. However, so far as objection (i) is concerned, even in case objections are not filed, the affected party can challenge in Court that the purpose was not a public purpose.

In the light of the above, we shall now consider whether the petitioners were given effective opportunity of hearing and whether the objections lodged by them on 12.1.2006 and 19.12.2006 were objectively considered by respondent No.3.

The pleadings contained in the affidavits filed on behalf of the petitioners clearly show that respondent No.3 had twice given opportunity of personal hearing to the petitioners, who were represented by their advocates. Therefore, the impugned acquisition cannot be annulled on the ground of violation of audi alterim partem and the only issue which requires detailed consideration is whether respondent No.3 had objectively considered the objections or his decision is vitiated due to non-application of mind.

A reading of the statement annexed with affidavit dated 3.1.2007 of Shri G.

Hanmanth Reddy, Special Deputy Collector (Land Acquisition), Unit-VII, ORR Project shows that the Land Acquisition Officer adverted to each of the 30 objections raised by the petitioners, recorded his remarks against majority of the objections and then submitted report to respondent No.3. The latter, after scrutinizing the record and the report sent by respondent No.4, passed order dated 26.12.2006, which reads as under:

"**DECISION TAKEN IN PURSUANCE TO THE ORDERS OF THE H'BLE HIGH COURT, dt.15.12.06, BY THE PROJECT DIRECTOR & SPL. COLLECTOR (LA) ORR ON THE REPORT SUBMITTED BY THE SDC (LA) ORR UNIT – VII FOR THE LANDS TO BE ACQUIRED IN NARSINGI VILLAGE OF RAJENDERNAGAR MANDAL.**

In pursuance to the orders of the Hon'ble Court in W.P.No.22810 of 2006, dt.15.12.06, Poppalguda, the petitioners have filed fresh objections on 19.12.06 before the Spl. Dy. Collector, Unit-VII, ORR. The Hon'ble Court has further directed the Spl. Dy. Collector to give an opportunity to the petitioners to submit their arguments through the representatives or advocates on 23.12.2006. The LAO has complied the orders of the Hon'ble Court by giving personal hearing to the petitioners through their advocate. The LAO has submitted report on the objections filed.

The fresh objections filed on 19.12.06 with reference to the extents in Poppalguda of the petitioners, the objections have been considered and examined in detail and the report of the LAO has been perused.

On the objections filed therein and on a careful consideration of the entire records of the LAO, I am of the opinion that most of the objections relate the change of alignment of the ORR. If the objections are accepted, it will result in change in alignment which was approved by the Govt. after following due procedure, which is not feasible.

Another set of objections relate the presence of water bodies in the alignment i.e. at Sy.No.291, 298, 299 & 300. To find out the ground reality the concerned revenue and irrigation records have been obtained which disclose that there is no water body in Sy.No.291. Personal Inspection by HUDA Officers and their reports have been perused. Reports of MRO and MPDO, Rajendranagar and the EE, North Tanks Division in this regard also disclose the same.

With regard to Sy.No.298, 299 & 300, which were newly added in the fresh objections, the petitioners have mentioned about the existence of the water bodies as per Zonal Development Plan of HUDA. A joint inspection was made on 22.12.06 in the presence of irrigation dept., planning and engineering officers of HUDA and a report has been submitted on 23.12.06 by the EE, North Tanks Division, to the LAO which indicate that there are no water bodies as alleged in Sy.Nos.298, 299 & 300. The MRO, Rajendranagar has also submitted a report stating that there are no water bodies in the said Sy.Nos.

The Govt. after consideration of the general objections made on the alignment notified in April, 05, has constituted a committee vide G.O.No.87, dt.2.11.05, to finalise the ORR alignment. The committee has inspected the lands coming under the alignment in question, and took a decision backed by expert advice and after considering technical, environmental and financial aspects has submitted a report to HUDA which in turn has approved the alignment committee' report and submitted to the

Govt. The Govt. has approved the alignment committee' report and issued a G.O.Ms.No.8, dt.12.12.05 and the same alignment has become final. In view of the finalization of the alignment, the change of the same is not feasible.

Though a no. of other objections are filed, I have perused the report of the SDC and also the objections and I am of the opinion that they are not tenable and cannot be sustained. Hence, rejected for the same reasons given in the report of the SDC.

I finally conclude that in view of the Govt. decision to finalise the ORR alignment, the Joint Inspections conducted by the irrigation, the engineering and the planning depts.. and the results cross verified show that the objections raised by the petitioners are not tenable. This project is of immense public importance to avoid traffic congestion for the city of Hyderabad and hence the objections filed by the petitioners are rejected."

From what we have mentioned above, it is clear that respondent No.3 briefly adverted to the report of the Alignment Committee constituted by the State Government vide G.O.Ms.No.87, dated 2.11.2005, the final decision taken by the State Government to change the alignment, the objections filed by the petitioners, and rejected the same by observing that the alignment had been changed on the basis of the advise given by the experts and after considering technical, environmental and financial aspects. Respondent No.3 also negatived the objection that the proposed alignment would pass through Survey Nos.291, 298, 299 and 300 in which there exist water bodies by observing that as per the reports of HUDA officers, MRO and MPDO, Rajendranagar and Executive Engineer, North Tanks Division, no water body exist in the particular survey numbers. In the remarks recorded by him, respondent No.4 specifically referred to the status of Survey Nos.291, 298, 299 and 300 of Poppalguda Village and observed that as per the report sent by Executive Engineer, North Tanks Division, there was no water body in either of the survey numbers. He noted that final decision for shifting the junction in Poppalguda village was taken by the State Government on the advise of the experts. He observed that the original alignment involved cutting of hillocks of 1½ km. length after Himayatsagar Lake and the same would have been extremely expensive. For the sake of reference, the report sent by respondent No.4 is attached as Schedule-A to this judgment.

It is true that the decision taken by respondent No.3 is not akin to a judicial order passed by the Court, which is presided over by a trained judicial officer, but that is not even the requirement of law. What Section 5-A postulates is the affording of opportunity of hearing to the objector or his authorized representative or advocate and objective consideration of the objections. The material produced before the Court adequately satisfies the requirement of Section 5-A

(2). Therefore, the petitioners' challenge to the impugned acquisition on the ground of violation of Section 5-A cannot be upheld.

In this context, it is also apposite to mention that the petitioners of these cases have not claimed ownership of the land comprised in Survey Nos.291, 298, 299 and 300. Therefore, the objection raised by them to the laying of road through those survey numbers is clearly untenable. In any case, the acquisition of the land owned by them cannot be nullified on the pretext that the implementation of the project may affect water bodies in other survey numbers.

The argument of Shri Prakash Reddy that entry No.2 appearing at page 52 of Notification dated 3.10.2001 issued under Section 22-A of the 1908 Act and report contained in letter No.DB/HD/2006-2007/1570, dated 23.12.2006 sent to petitioner No.1 by Executive Engineer, I & CAD, IB Division, should be treated conclusive of the existence of water body in Survey Nos.291, 298, 299 and 300 sounds attractive, but on a closer scrutiny of the documents, we are unable to agree with him. In entry No.2 appearing on page 52 of Notification dated 3.10.2001, which was published in the Andhra Pradesh Gazette Extra-Ordinary dated 6.10.2001, the land comprised in Survey No.291 of Narsingi Village has been described as "Sikham patta". In the last column of that entry, the word "kunta" has also been used, but the same cannot be treated as conclusive of the status of the land. That apart, the existence or otherwise of the water body in Survey No.291 of Narsingi Village is inconsequential because the entire case of the petitioners rests on the assertion that water bodies exist in Survey Nos.291, 298, 299 and 300 of Poppalguda Village.

It is also significant to note that in his letter No.DB/HD/2006-2007/1570, dated 23.12.2006, Executive Engineer, I & CAD Department, IB Division, Hyderabad referred to the letter of the same date sent by petitioner No.1 and proceeded to confirm the existence of water bodies in Survey Nos.291, 298, 299 and 300 of Poppalguda Village. This is evinced from the letter of the Executive Engineer:

"GOVERNMENT OF ANDHRA PRADESH
Irrigation and C.A.D. Department

From:
Sri D. Narasimha Reddy, B.E.,
Executive Engineer, I & CADD.,
IB, Division, Hyderabad.

To
M/s.Jahabheri Properties Pvt.Ltd.
Madapur Road, Kothaguda,
Hyderabad.

Lr.No.DB/HD/2006-2007/1570 Dt.23-12-2006.

Sir,

Sub: Existing Water Bodies in Sy.Nos.291, 298, 299 and 300 of Poppalaguda Village, Rajendranagar Mandal, Ranga Reddy District – notified and zonal development plan of Poppalaguda Division – request for conformation of existence of water bodies – issue of certificate – regarding water bodies.

Ref: M/s.Jayabheri Properties Pvt. Ltd., letter dated 23/12/2006.

Kindly refer your letter dated 23/12/2006 wherein you have stated that the water bodies with bunds sluices and feeder channels are existing times immemorial in Sy.Nos.291, 298, 299 & 300 of Poppalaguda Village, Rajendranagar Mandal, Ranga Reddy District, and requested this office to confirm the existence of the water bodies in above Sy.Nos.

Subsequently, I have inspected the site, conducted panchanama and verified the office records and zonal development plan of Poppalaguda village issued by HUDA covered under G.O.Ms.No.479, M.A., dated 02/09/1994, found that the water bodies are under the influence of Firangi Nala. The following futures are noted all along the Firangi Nala from the village boundary of Poppalaguda and Narsingi.

a) It is found that there is a M I source named Chandappa Kunta fed by Firangi Nala at the Village Boundary of Poppalaguda nad Narsingi Village, presently it is irrigating about 20 Acs. And the submergency area entire bund area of Chandappa Kunta covered under Sy.No.291 admeasuring Ac.6-11 guntas.
b) A surplus weir with big masonry structure (CD weir) is existing across the Firangi Nala at Sy.Nos.298 & 299.
c) A small pond is found in Sy.No.300 and receives water from Firangi Nala and supplies to Shaikpet Nala.

Yours faithfully,
Sd/-23/12/2006
Executive Engineer, I & CADD,
I.B. Divn., Hyderabad."

The contents of the above reproduced letter have been contradicted by letter No.DB/E.E./N.T.D./06/ORR/761, dated 23.12.2006 sent by Executive Engineer, North Tanks Division, Secunderabad, the relevant portions of which read as under:

"GOVERNMENT OF ANDHRA PRADESH
IRRIGATION & CAD DEPARTMENT

From:
Sri K. Vijayasena Reddy, B.E.,
Executive Engineer,
North Tanks Division,
Buddha Bhavanam,
1st Floor, M.G. Road,
SECUNDERABAD – 3

To
The Special Deputy Collector,
L.A. Unit – VII,
O.R.R. P., HUDA,
Tarnaka,
Hyderabad.

Lr.No.DB/E.E./N.T.D/06/ORR/761 Dt.23-12-2006.

Sir,

Sub: L.A. – Outer Ring Road – Ranga Reddy District, Rajendranagar Mandal, Poppalaguda Village – Sy.No.291, 292, 293 etc. admeasuring Ac.44.02 gts. – Acquisition of land for formation of outer ring road conducting of joint inspection – Reports – Submitted – Reg.

Ref: 1. The Spl. Dy. Collector, L.A., ORRP, HUDA, Lr.No.81/LA/ ORRP/Unit-VII/2005, Dt.09.11.2006.
2. T.O.Lr.No.DB/E.E/N.T.D/Hyd/06/682, Dt.21.11.2006.
3. The Spl. Dy. Collector, L.A., ORRP, HUDA, Lr.No.81/LA/ ORRP/Unit-VII/2005, Dt.20.12.2006.

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In continuation of this office reference 2nd cited, it is to inform that Joint Inspection has been conducted by both HUDA & Irrigation Officials on 22.12.2006. The Special Deputy Commissioner, L.A. Unit, ORRP, HUDA, Assistant Project Officer, ORRP, HUDA, Revenue Inspection, ORRP, Deputy Executive Engineer, HUDA, Deputy Executive Engineer and Assistant Engineer of this Division are present on Joint Inspection of Sy.Nos.291, 298, 299 & 300 of Poppalguda Village, Rajendra Nagar Mandal.

As per the Joint Survey, it reveals that the inspection team has visited the site i.e. Sy.No.300, 298, 299 & 291 of Poppalguda Village where the alignment of outer ring road is given.

On visiting of Sy.No.300, in the location there is a pick-weir just beside i.e. in the down stream of the feeder channel as shown in the map enclosed. This location is also not shown in the topo-sheet as a "**water body**".

The team visited the Sy.No.298 where there is no single evidence regarding the "**water body**".

Surplus arrangement is noticed to the feeder channel in Sy.No.299 to allow the excess water during rainy season to avoid damages to feeder channel. The earthen bund is only related to the feeder channel but not for "**water body**". On verification of the topo-sheet the same is observed as a bund (tank) of feeder channel.

The team has also inspected the Sy.No.291. The report submitted in the reference 2nd cited holds good for this location.

In view of the above, it is stated that the curvy nature of the "feeder channel bund" through the above said Sy.No.300, 299 & 291 giving the appearance of kundas (or) water bodies to the above locations. But, whenever it is verified from the topo-sheets (S.I. Sheets) and on physical verification with the true facts, they are "**not to be water bodies**" and in the above location there are no notified tanks (water bodies) as per the records available in this office.

The S.I. Sheet is herewith enclosed showing the above locations.

This is for favour of information and further necessary action.

Encl: Extract of S.I. Sheet No.56K/7/NW.

Yours faithfully,
Sd/- 23/12/2006
Executive Engineer,
North Tanks Division,
Hyderabad"

On a careful reading of the Gazette Notification and letter dated 23.12.2006 sent by Executive Engineer, I & CAD Department, we are constrained to remark that while the Gazette Notification relates to Survey No.291 of Narsingi Village, letter of the Executive Engineer makes a mention of Survey No.291 of Poppalguda and Narsingi Villages simultaneously. The falsity of the contents of letter No.DB/HD/2006-2007/1570 is evinced from the fact that the Executive Engineer makes a mention of the office records and zonal development plan of Poppalguda Village issued by HUDA, site inspection and panchanama conducted by him, but the so-called panchanama etc. have not been produced before the Court. As against this, the letter of the Executive Engineer, North Tanks Division, Secunderabad makes a detailed mention of the joint inspection of the four survey numbers by Special Deputy Commissioner, L.A. Unit, ORR Project, HUDA, Assistant Project Officer, ORR Project, Revenue Inspection, ORR Project, Deputy Executive Engineer, HUDA, Deputy Executive Engineer and Assistant Engineer of North Tanks Division and S.I.Sheet No.56K/7/NW. It is, thus, evident that even though, on papers, survey numbers enumerated above may have been recorded as "kuntas", on ground, there are no water bodies in those survey numbers.

In view of the above discussion, we hold that the acquisition of the petitioners' land cannot be nullified on the ground that the execution of ORR Project may result in encroachment and destruction of water bodies.

Re: Q.No.2:

The plea of mala fides and arbitrariness raised by the petitioners is liable to be negatived because, except making bald statement that the alignment approved in April, 2005 was changed with a view to favour some influential persons, who have links with the party in power, and with a view to harm those having connections with the opposition party in the State, the petitioners have not placed before the Court any tangible material or evidence to substantiate the same. It is settled law that the burden to prove the charge of malice animus or malice in fact is always on the person who makes such allegation and the Court

cannot, on the basis of vague and bald assertions, make rowing enquiry in such matters which may fish out some material supporting the insinuatory assertions made by the petitioner. In **E.P. Royappa v. State of Tamil Nadu**[11], the Supreme Court considered a somewhat similar question in the backdrop of allegations of mala fides levelled by the ex-Chief Secretary of Tamil Nadu against the Chief Minister of the State and observed:

"The allegations of mala fides are often more easily made than proved, and the very seriousness of such allegations demands proof of a high order of credibility. Here the petitioner, who was himself once the Chief Secretary, has flung a series of charges of oblique conduct against the Chief Minister. That is in itself a rather extraordinary and unusual occurrence and if these charges are true, they are bound to shake the confidence of the people in the political custodians of power in the State, and therefore, the anxiety of the Court should be all the greater to insist on a high degree of proof. In this context it may be noted that top administrators were often required to do acts which affect others adversely but which are necessary in the execution of their duties. These acts may lend themselves to misconstruction and suspicion as to the bona fides of their author when the full facts and surrounding circumstances are not known. The Court would, therefore, be slow to draw dubious inferences from incomplete facts placed before it by a party, particularly when the imputations are grave and they are made against the holder of an office which has a high responsibility in the administration. Such is the judicial perspective in evaluating charges of unworthy conduct against ministers and other high authorities, not because of any special status which they are supposed to enjoy, nor because they are highly placed in social life or administrative set up - these considerations are wholly irrelevant in judicial approach - but because otherwise, functioning effectively would become difficult in a democracy."

Since the petitioners have failed to discharge the primary burden, which lie upon them to prove the charge of mala fide exercise of power, we decline to entertain this ground of challenge.

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Re: Q.No.3:

We shall now consider whether the delegation of power in favour of respondent No.3 is ultra vires Section 3-A of the 1894 Act and notifications under challenge are liable to be quashed on the ground that respondent No.3 could not have exercised the power of the Collector.

For deciding the above question, it will be useful to notice Sections 3 (c), 3-A, 4 (1) and 6 of the 1894 Act. The same read as under:

Sections 3 (c), 3-A, 4 (1) and 6 of the Land Acquisition Act, 1894

Section 3 (c): the expression "Collector" means the Collector of a district, and includes a Deputy Commissioner and any officer specially appointed by the [appropriate Government] to perform the functions of a Collector under this Act.

3A. Delegation of functions: The State Government may, by notification in the Andhra Pradesh Gazette, direct that any power conferred or any duty imposed on them by this Act, shall in such circumstances and under such conditions, if any, as may be specified in the notification, be exercised or discharged by the District Collector.

4. Publication of preliminary notification and powers of officers thereupon: -
(1) Whenever it appears to the appropriate Government or the District Collector, that land in any locality is needed or is likely to be needed for any public purpose or for a company a notification to that effect shall be punished in the Official Gazette or The District Gazette and in two daily newspapers circulated in that locality of which at least one shall be in the regional language, and the Collector shall, within forty days from the date of publication of such notification cause public notice of the substance of such notification to be given at convenient place in the said locality, the last of the dates of such publication and giving of such public notice being of the dates of such publication and giving of such public notice being hereinafter referred to as the date of the publication of the notification.

6. Declaration that land is required for a public purpose: -
(1) Where the appropriate Government or the District Collector is satisfied that any particular land is needed for the purpose of construction, extension or improvement of any dwelling house for the poor, a declaration shall be made to that effect under the signature of a Secretary to such Government or any other officer duly authorized to certify their orders or the District Collector as the case may be, and different declarations may be made, from time to time, in respect of different parcels of land covered by the same notification under Section 4, sub-section (1):

Provided that no such declaration shall be made unless the compensation to be awarded for such property is to be paid wholly or partly out of public revenues or some fund controller or managed by a local authority.

A conjoint reading of the provisions reproduced above makes it clear that the State Government can delegate any power conferred or any duty imposed on it to the District Collector and also specify any officer to perform the functions of the Collector.

In exercise of the power conferred upon him under Section 3-A of the 1894 Act, the Governor of Andhra Pradesh directed that respondent No.3 shall exercise all the powers conferred and discharge all the duties imposed on the State Government under Sections 4, 5-A, 6 and 17 (4) for the purpose of ORR project and townships for HUDA. The same was circulated vide G.O.Ms.No.459, dated 8.4.2005, which reads as under:

"**NOTIFICATION**

In exercise of the powers conferred by Section 3-A of the Land Acquisition Act, 1894 (Central Act 1 of 1894), the Governor of Andhra Pradesh hereby direct that the Project Director, Outer Ring Road and Special Collector (FAC), Land Acquisition,

Hyderabad Urban Development Authority, Hyderabad shall exercise all the powers conferred and discharge all the duties imposed on the State Government under Section 4, 5-A, 6 and sub-Section (4) of Section 17 of the said Act, for the purpose of acquisition of lands for formation of Outer Ring Road Project and Townships for HUDA, Hyderabad.

Dr.V.P. JAUHARI
SPECIAL CHIEF SECRETARY TO GOVERNMENT"

It is, thus, evident that respondent No.3 had been conferred with the power and duties of the State Government under Sections 4, 5-A, 6 and 17 (4) of the 1894 Act for the purpose of formation of ORR project and Townships for HUDA and as the power of the District Collector under Sections 4 and 6 of the 1894 Act is co-extensive with that of the government, the delegation made in favour of respondent No.3 would operate qua all the powers vested in the District Collector and the duties which he is required to discharge in the matter of acquisition of land under the 1894 Act.

In **Kilarapu Satyavati v. District Collector** (supra), the learned Single Judge extensively referred to various G.Os. issued by the State Government, the definition of the term "Collector" contained in Section 3 (11) of the General Clauses Act, 1897, the judgment of this Court in **Ch. Venkataratnam v. State of Andhra Pradesh**[12], **Munagala Sambi Reddy v. District Collector, Guntur**[13] and held that the delegation was not ultra vires the provisions of Section 3-A. The relevant portions of that judgment are extracted below:

"The terms "Collector" or "District Collector" are not defined in the Act. Section 3(11) of General Clauses Act, 1897 (Central Act No.X of 1897) (hereafter called, the Central Act) defines the term "Collector" as to mean in a Presidency town, the Collector of Calcutta, Madras or Bombay, as the case may be, and elsewhere, the Chief Officer incharge of the revenue administration of a District. Section 3(6) of the A.P. General Clauses Act, 1891 (A.P.Act No.I of 1891) (hereafter called, the State Act) defines "Collector" so as to include every officer, who for the time being is authorized to. Further the term "District Collector" is defined under Section 3(8) of the State Act as to mean the Chief Local Officer incharge of the revenue administration of a District. There is not much difference in the definition of the term "Collector" or "District Collector" in the Central or State Act. The Officer, who is Chief Officer incharge of the revenue administration of a District, is the District Collector and when such powers are conferred on an Officer who is authorized to exercise the powers of a Collector, such officer also comes with in the definition of "District Collector". As seen from the definition of the "Collector", in Section 3 (c) of the Act, the definition is in two parts. One is descriptive part, according to which, "Collector" means the Collector of the District. Within this expression comes the "District Collector", who is the Chief Officer of revenue administration of the District. There is inclusive part in the definition, according to which, a Deputy Commissioner and any Officer specially appointed by the appropriate Government to perform the functions of a Collector under the Act is also

District Collector. The term “appropriate Government” is defined in Section 3(ee) of the Act as either the State Government, when the land is acquired for the purpose of the State and Central Government when the land is acquired for the purpose of the Union. This definition becomes relevant in the context of acquiring the land and initiating the procedure therefor as contained in Chapter-II of the Act.

Section 4 of the Act requires the appropriate Government to publish a notification to that effect in the official Gazette and also authorize any Officer to enter and survey the land. After conducting the enquiry as contemplated under Section 5A of the Act (in case it is not dispensed with), the appropriate Government has to issue a declaration that the land is needed for public purpose. While doing so, the appropriate Government shall have to consider the report if any made under Section 5A of the Act. Reading Sections 4(1) and 6 of the Act along with Sections 3(c) and 3(ee) of the Act, it becomes clear that in the usual course, it is only the appropriate Government, which can issue a notification under Section 4(1) of the Act proposing to acquire the land.

Section 4(1) and Section 6(1) of the Act were amended by Land Acquisition (A.P. Amendment) Act 1976 (State Act No.XXII of 1976). After amendment, these provisions read as under.

... ...

A plain reading of Section 4(1) as amended in A.P. would show that if it appears that the land is required for any public purpose, appropriate Government or the District Collector may publish a notification to that effect. However under Section 6 of the Act – as amended in A.P. – the power of the District Collector to issue a declaration was restricted to the purpose of construction, extension or improvement of any dwelling house for the poor. If any public purpose exists for which the land is required the Government and the District Collector can issue notification under Section 4(1) of the Act, but when it comes to issuing a declaration under Section 6(1) of the Act, the Government is competent to issue a declaration for any public purpose whereas the District Collector can issue a declaration only when the land is required for providing dwelling houses to the poor. By the same amendment Act, Section 3A was inserted conferring power of delegation on the State Government. Under the said provision, the Government can direct that any power conferred or any duty imposed on them by the Act may be exercised or discharged by the District Collector. Accordingly, the Government of Andhra Pradesh issued G.O.Ms.No.1311 dated 17.7.1986 directing that all the District Collectors in the State shall exercise all powers under Sections 4, 5A, 6 and 17(4) of the Act for acquisition of the lands on behalf of the Municipalities. The relevant file in relation to the said Government Order is placed before this

The position that emerges from the above discussion is that by reason of the delegation of the powers to the District Collectors under Section 3A of the Act and also by reason of the amendments made to Sections 4(1) and 6(1) of the Act the appropriate Government or the District Collector can issue notifications under the Act for acquiring the land for Municipality. The submission of the learned Counsel for the petitioner that the power under Section 3A of the Act can be delegated only in such circumstances on such conditions to be specified in the notification and for want of specification the delegation of the powers is illegal, cannot be accepted. As noticed hereinabove, Section 4(1) of the Act itself was amended and in a given case even without there being any delegation under Section 3A of the Act, a notification issued under Section 4(1) of the Act by the District Collector would be valid.”

In **Writ Appeal No.112 of 2006 – Kilarapu Satyavati and others v. The District Collector, Kakinada and others**, the Division Bench considered the same issue and held:

"A reading of the plain language of Section 4 (1) and (2) of the Act, as amended by Andhra Pradesh Act No.XXII of 1976 makes it clear that the District Collector can initiate process for acquisition of land needed for or is likely to be needed for any public purpose. Under sub-section (2), the District Collector can authorize any person to take actions or do the things enumerated in that sub-section. The power exercisable by the District Collector under Section 4 (1) and (2) is not hedged with any condition. He can exercise this power for any public purpose. It has neither been pleaded by the appellants nor their advocate argued that setting up of new compost yard for Ramachandrapuram Municipality is not a 'public purpose'. Therefore, notification dated 18-11-2005 issued by the District Collector for acquisition of land cannot be faulted or declared as nullity on the ground that he did not have the jurisdiction to initiate the process for acquisition of land on behalf of the municipality.

No doubt, Section 6 (1) of the Act, as amended by Andhra Pradesh Act No.XXII of 1976, lays down that where the land is required for the purpose of construction, extension or improvement of any dwelling house for the poor, a declaration is required to be made to that effect under the signature of a Secretary to the appropriate Government or any other officer duly authorized to certify their orders or the District Collector, but, if this section is read in conjunction with main
Section 6 and Section 3-A, it becomes clear that the power exercisable by the Government under Section 6 of the Act can be delegated to the District Collector. This is precisely what was done by G.O.Ms.No.1131 dated 17-7-1986, a reading of which makes it clear that the State Government had delegated powers under Sections 4, 5-A, 6 and 17 (4) of the Act for acquisition of lands on behalf of the municipalities. Therefore, we agree with the learned Single Judge that notification dated 23-11-2005 is not ultra vires to the power of the District Collector."

In view of the above stated legal position, we do not find any merit in the petitioners' plea that respondent No.4 was not entitled to act as a delegate of the State Government or that he could not exercise the power of the Collector for the purpose of Sections 4 (1) and 6 of the 1894 Act.

Re: Q.No.4:

The argument of Shri P. Sri Raghuram that the agricultural lands cannot be used for non-agricultural purposes without obtaining prior permission under the said Act and, therefore, the acquisition of the petitioners' land should be nullified merits summary rejection because Section 3 (1) of the 2006 Act contemplates the prior permission of the competent authority only when agricultural land is actually put to non-agricultural purpose. In these cases, that eventuality will happen only when the government succeeds in acquiring the land. So far, the acquisition proceedings could not be finalized because of the interim orders passed by this Court. Therefore, the impugned acquisition cannot be annulled

by assuming that after taking possession of the land, the government will put the agricultural land to non-agricultural use without obtaining prior permission from the competent authority.

Before parting with the case, we deem it proper to notice some of the observations contained in paragraph 10 of the judgment of the Supreme Court in **Ramniklal N. Bhutta v. State of Maharashtra**[14]. These are:

"Before parting with this case, we think it necessary to make a few observations relevant to land acquisition proceedings. Our country is now launched upon an ambitious programme of all round economic advancement to make our economy competitive in the world market. We are anxious to attract foreign direct investment to the maximum extent. We propose to compete with China economically. We wish to attain the pace of progress achieved by some of the Asian countries, referred to as "Asian tigers", e.g., South Korea, Taiwan and Singapore. It is, however, recongnised on all hands that the infrastructure necessary for sustaining such a pace of progress is woefully lacking in our country. The means of transportation, power and communications are in dire need of substantial improvement, expansion and modernisation. These things very often call for acquisition of land and that too without any delay. It is, however, natural that in most of these cases, the persons affected challenge the acquisition proceedings in Courts. These challenges are generally in the shape of writ petitions filed in High Courts. Invariably, stay of acquisition is asked for and in some cases, orders by way of stay or injunction are also made. Whatever may have been the practices in the past, a time has come where the Courts should keep the larger public interest in mind while exercising their power of granting stay/ injunction. The power under Article 226 is discretionary. It will be exercised only in furtherance of interests of justice and not merely on the making out of a legal point. And in the matter of land acquisition for public purposes, the interests of justice and the public interest coalesce. They are very often one and the same. Even in a Civil Suit, granting of injunction or other similar orders, more particularly of an interlocutory nature, is equally discretionary. The courts have to weigh the public interest vis-à-vis the private interest while exercising the power under Article 226 - indeed any of their discretionary powers. It may even by open to the High Court to direct, in case it finds finally that the acquisition was vitiated on account of non-compliance with some legal requirement that the persons interested shall also be entitled to a particular amount of damages to be awarded as a lump sum or calculated at a certain percentage of compensation payable. There are many ways of affording appropriate relief and redressing a wrong; quashing the acquisition proceeding is not the only mode of redress. To wit, it is ultimately a matter of balancing the competing interests. Beyond this, it is neither possible nor advisable to say. We hope and trust that these considerations will be duly borne in mind by the Courts while dealing with challenges to acquisition proceedings."

In Writ Appeal No. 466 of 2006 **- Ch. Kiron v. Project Director & Special Collector, Land Acquisition, Hyderabad –** decided on 28.4.2006, this Court observed as under:

"While disposing of the appeal, we deem it necessary to emphasize the imperative need of vigilance on the part of the public authorities, who have been entrusted with the task of implementing what is considered as one of the most

important projects for the city of Hyderabad. This city has been inviting many thousand crores of investment from all over the country and abroad. Needless to say that availability of sound infrastructure is sine qua non for attracting investment. We can take notice of the chaotic conditions in relation to traffic prevailing in another advanced city of country i.e. Banglore which prompted the Central cabinet to take a decision to immediately approve the project for metro rail and Bangalore-Mysore highway. These projects are of immense public importance and any impediment by the executive apparatus of the State in implementation of these projects must be viewed with grave adversity. Even judicial intervention in such matters has to be made with great caution and circumspection. The Courts cannot lose sight of the fact that delay in implementation of public-oriented projects adds to the huge cost in its execution. Even a single day's delay enhances the cost by few crores of rupees, which has naturally to be born by the public at large."

In the result, the writ petitions are dismissed and the interim orders passed earlier are vacated.

G.S. SINGHVI, C.J.

October , 2007.

C.V. NAGARJUNA REDDY, J.

svs

SCHEDULE - A.

Objections filed on 19-12-2006 in pursuance to the orders of the Hon'ble High Court dt.15-12-2006

Village: Narsingi Mandal: Rajendranagar Dist: Ranga Reddy

Sl. No.	Name of the Petitioner & Address Sarvasri	Document No. & Date	Sy. No.	Extent Ac-gts	Nature of objection in brief	Remarks of L.A.O.,
1.	M/s. Jayabheri Properties Pvt. Ltd. Rep. By its Director Sri Kishore Duggirala Maganti Rajababu alias Murali Mohan Sri Koshore Duggirala Maganti Ram	10389/04 Dt.06-10-04 10388/04 Dt.06-10-04 10378/04 Dt.08-10-04 10377/04 Dt.08-10-04	200/A, 201/C. 202/C 190, 201/A, 202/A 199/A 198/P,	01-19 01-21 02-00 01-10,	**1)** Prior to the present notification, the notification issued on 21-04-2005 U/s 4(1) was notified after detailed survey which was straight alignment and there was no need for changing and shifting the alignment as notified under present notification. **2)** That without	The objections of the petitioners at Sl.No.1 to 5, have been considered and it is submitted that the government after careful consideration of the general objections have constituted committee and the committee has inspected the land coming under alignment and took a decision after

	Mohan M/s Jayabheri Properties & Services Pvt. Ltd., rep. By its Director Sri Ram Mohan Maganti. Mannava Jagan Mohan Dr. Subba Rao Balusu Mrs.Vasundhara Balusu G.D. Ramanjaneyulu	10387/04 Dt.06-10-04 3301/04 Dt.11-02-04 2026/04 Dt.25-02-04 1302/05 Dt.04-02-05 1303/05 Dt.04-02-05 10479/04 Dt.13-10-04 10478/04 Dt.13-10-04 3302/04 Dt.11-02-04 2035/04 Dt.25-02-04 3124/05 Dt/28-02-05 4620/05 Dt.06-04-05	197/P, 199/A 189/B-1 187, 189, 193. 189, 194, 196, 197, 200, 201, 202 176 191, 192/C 196/B 197/A 196/A 196/C 187, 189. 193 189, 194, 196, 197, 200, 201 & 202 189/A	00-30 01-04 00-05.5 02-30, 00-20 01-03.5 00-04, 00-14.5 00-12 00-24.5 01-04 01-00 01-30 00-10 01-34 00-06 00-22 00-20 00-05.5 02-30 00-20 01-03.5 00-04 00-14.5 00-12 00-24.5 01-04 01-00	any valid reason, without conducting any survey covering different aspects the present alignment is fixed and alternate lands were notified in substitution of earlier notified lands. **3)** That even after the said preliminary notification dated 21-04-2005 the authorities have kept on identifying the alternate lands from time to time without any proper and scientific survey and ultimately issued the present notification which is the subject m a t t e r these objection. **4)** The alignment earlier notified dated 21-04-2005 was a straight alignment from Vattinagulapally onwards till the Poppalguda “T” Junction without any turns and twists which was notified after detailed and in depth verification where as the present notified lands proposed for ring road it is not having a straight line taking a several twist and turns and culminating into Narsingi Junction. **5)** That the major portion of the land earlier notified	considering the technical, environmental and financial aspect and submitted a report to the State Government. The State Government have approved the alignment committee report and issued G.O.Ms.No.8 dt.12-12-2005 and the same has become final. If the objections raised by the petitioners are accepted it would result in change of alignment of ORR which was finalized after taking various aspects into consideration and same may not be feasible. The objections of the petitioners at Sl.No.6 to 10 & 13, have been considered and submitted that with regard to Sy.No.291 this office has obtained the relevant material to find out present status of the land from the Revenue, Panchayath Raj & Irrigation Departments. **I)** The Revenue Authorities have issued the letter stating that there is no water body in Sy.No.291 and further informed that a part of the land is under cultivation and leaving balance area fallow.

			199/B	00-26	was a dry land and the land not being used for any agricultural operations where as the lands now proposed for acquisition including our affected land is use for agriculture propose. **6)** As per the Zonal Development Plan of Poppalguda Division as approved under G.O.Ms.No.479, M.A. Dated 02-09-1994, the entire land in Sy.No.291 of Poppalguda village is earnmarked and notified as a water body and a Land use Certificate dated 16-01-2006 was also issued by the HUDA stating that the said land is a water body. **7)** As per the Zonal Development Plan of Poppalguda Division issued by HUDA also show that there are water bodies in land in Sy.Nos. 298, 299 & 300 of Poppalguda village also. **8)** Further upon our verification and inspection by us, it is found that the water bodies are still existing with bunds around the water bodies and feeder channels and sluices in the said water bodies in respect of all the water bodies	**II)** The MPDO has informed that there is no water body in Sy.No.291. **III)** The Executive Engineer, North Tanks Division, has informed that there is no notified tank or Kunta in Sy.No.291. He further informed that the location has no structures like sluices, gates, surplus arrangements etc., In pursuance of the directions of the Hon'ble High Court dated 15-12-2006 the petitioner herein filed objections on 19-12-2006. in the said objection they have raised additional objections that the water bodies are existing in Sy.Nos.298, 299 & 300 as per Zonal Development Plan. To find out the ground reality, joint inspection was made consisting of officials from Irrigation and HUDA. On verification it is revealed that no water bodies are existing in the Sy.Nos. 298, 299 & 300 as stated by the petitioners. I am herewith enclosing the report of E.E. Irrigation dated 23-12-2006 furnished to this office for kind perusal. The

					in Sy.Nos.291, 298, 299 & 300 of Poppalguda village and evidencing the same, the photographs taken by us are filed herewith. **9)** The present alignment is passing through the said water bodies, which is against law and also against Judicial pronouncements and it is the duty of the Government to protect and preserve the water bodies. **10)** If the land in Sy.Nos.291, 298, 299 & 300 of Poppalguda village are dropped from out of the acquisition since they are water bodies, the subject lands belonging to the undersigned covered under present notification will be automatically dropped from the acquisition since subject lands are contiguous, abutting and in between the said water bodies. **11)** From the expert reports and committee reports it is stated that the alignment is changed to save the water bodies in the old alignment is not at all correct. From Vattinagulapally onwards the earlier alignment passed through	MRO Rajendranagar Vide Lr. dated 23-12-2006 reported that there are no water bodies in Sy.No.298, 299 & 300. Copy of the said letter is submitted for kind perusal. The objections of the petitioners Sl.No.11 & 12 have been considered and it is submitted that the government have approved the alignment. In view of the same the objections of the petitioners may not be feasible for consideration, which result in change in alignment. The objections of the petitioner at Sl.No.13 has been considered and submit that there are no water bodies in Sy.No.291, 298, 299 & 300 as stated. The objections of the petitioners at Sl.No.14 has been considered and submit that the selection of the land concerned with the requisition department. The same are not feasible for consideration as the alignment passes through the said Sy.Nos. Based on the alignment the acquisition is

					land in Sy.Nos.300, 302, 305, 306, 309, 310, 311, 312, 318, 313, 314, 315, 283 & 282 of Poppalguda village and as could be seen from the Zonal Development Plan of the Poppalguda village as approved by the G.O.Ms.No.479, M.A. dated 02-09-1994, there are no water bodies in the said survey numbers which are ear-marked as per the earlier alignment. Basing upon the Zonal Development Plan of Poppalguda Division and taking the lands which were mentioned in the Notification under Section under 4(1) of the Act dated 21-04-2005, we have prepared a plan showing the earlier and the present alignment and the lands with survey numbers covered under earlier and present alignments while ear-marking the water bodies as per Zonal Development Plan. The said committee reports and experts report fail to mention about the details of survey numbers of Water bodies to avoid which they have changed the earlier alignment to present alignment. **12)** In G.O. Ms.	sought by the Requisition Department. Acceptance of their objections result in the change of alignment which may not be feasible. The objections of the petitioners at Sl.No.15 deserves no remarks by this office. The objection of the petitioners at Sl.No.16 has been considered and submit that the Government have approved the final alignment. Shifting of the junction is based on expert opinion and committee recommendation. The objections of the petitioners at Sl.No.17 has been considered and submit that for formation of junction at Narsingi Village an extent of Ac 45-12 ½ gts is required, out of which an extent of Ac 13-32 ½ gts is patta land, Ac 07-23 gts is assigned land and an extent of Ac 23-37 gts is Govt.Land. There is no government land available for the junction proposed earlier at Poppalguda village. Moreover as per technical opinion it was not feasible.

						No. 8, Infra-structure & Investment (IID-2) Dept., dated 12-12-2005, it is stated that it is proposed to change the alignment from old to new in view of the various representations received from the public and the public representatives and on perusal of the various objections filed by the persons whose lands were affected under earlier alignment, they have stated that there is water body in the land in Sy.No.283 of Poppalguda village and on the other hand, the Zonal Development Plan of Poppalaguda Division shows that there is no water body in the land in Sy.No.283. Said representations are filed by the Authorities in W.P.No.22810 of 2006 and the same may be perused. **13)** As the Zonal Development Plan reveals that there are water bodies and in fact water bodies exist in the Sy.Nos.291, 298, 299 & 300 of Poppalguda village, neither the general Public is allowed to raise any structures on the Water bodies nor the Govt. is allowed to disturb the water bodies by laying the road.	The objections of the petitioners at Sl.No.18 has been considered and submit that it relates to existence of water bodies and ayacut at Shameerpet Mandal which has no relevance to this objections. Since no water body is in existence as per the records and inspection reports in the proposed lands under acquisition. The objections of the petitioners at Sl.No.19 has been considered and submit that the Hon'ble Apex Court have observed that the house cite patta's should not be assigned in notified water bodies but in the instant case it is not the case of assignment of land it is for formation of road for general public. More over there are no water bodies existing in the lands under acquisition. The objections of the petitioners at Sl.No.20 has been considered and submit that the expenditure of on rock cutting is huge in case the original alignment is adopted. Therefore a decision was

						taken by the committee to revise the alignment through plain lands avoiding hillocks.
					14) That the lands notified for proposed acquisition i.e., our lands in Sy.Nos.292, 293 & 294 of Poppalguda village are low-laying areas and huge expenditure need to be incurred for laying a road passing through such low-laying areas. Whereas the lands notified in Gazette dated 21-04-2005 and other alternative lands available are not low-laying areas and were suitable for formation of Outer Ring Road.	The objections of the petitioners at Sl.No.21 has been considered and submit that the cutting of hillocks for 1 ½ Km length after Himayathsagar Lake is unavoidable as the hillocks are continuous on the eastern side of the lake. Whereas, in the present case the plain lands are available and therefore most cost effective and technically feasible alignment is finalized.
					15) Our enquiries revealed and we believe the same to be true that the AARVY Consultants NSS Associates from whom the expert opinions were sought are not at all reputed technical experts and they never carried out any similar assignments and they do not have any past experience in similar works.	The objections of the petitioners at Sl.No.22 has been considered and submit that the scope of Consultancy by M/s Mecon was limited to Phase I from Gachibowli to Shamshabad which they have completed and final report submitted
					16) The said experts opinion, the three member and six member committee in their reports repeatedly stated that the earlier alignment of Poppalguda Junction was shifted to present alignment of Narsingi Junction to avoid Water bodies in the earlier alignment.	The objections of the petitioners at Sl.No.23 has been considered and submit that the consultants report and recommendations are quite clear. The objections of

					As already stated above, no water bodies exist in the land which were sought to be acquired under notification dated 21-04-2005 pertaining to earlier alignment. Though the said reports stated that there are water bodies in the earlier alignment, failed to mention the survey numbers in which the water bodies are existing. As stated supra, there are no water bodies at all in any of the survey numbers covered under earlier alignment as per Zonal Development Plan and even in fact. **17)** The availability of Govt. Land at Narsingi for formation of Junction cannot be a valid ground for change of alignment and seeking to acquire and lay road on the water bodies. Our enquires revealed and we believe the same to be true that there is no Govt. land available for formation of Narsingi Junction and in fact the assigned lands were resumed on payment of compensation and hence the Authorities cannot plead that formation of Narsingi Junction is an economical. **18)** At deferent	the petitioners at Sl.No.24 to 27 have been considered and submit that the alignment have been approved by the Government. The objections of the petitioners at Sl.No.28 with regard to Sy.No.291 has been considered and submit that the reports of the Executive Engineer, M.R.O. and MPDO are complementary to each other not contrary as stated. The copies of the letters are enclosed for perusal. The objection with regard to Sy.No.298, 299 & 300 the detailed remarks shown with reference to objections made at Sl.No. 6 to 10 &13. The Hon'ble High Court have directed to the objections by 19-12-2006 and the L.A.O., to hear on 23-12-2006. Accordingly they have filed the objections on 19-12-2006. There are no such directions for conducting joint inspection by the Hon'ble High Court. At any rate it is reported as mentioned earlier that there is no water body in existence in the said Sy. Nos.

						sectors, when the alignment was changed, the land owners whose lands affected and covered under changed alignment have filed Writ Petitions questioning the acquisition viz., W.P.No.16018 of 2005 and 16519 of 2005, wherein the Authorities have filed counter affidavits stating that they were compelled to change the alignment in view of existence of water bodies in the earlier alignment. **19)** The Hon'ble Supreme Court in H.L. Thiwari Vs. Kamala Devi and others reported in protected and preserved. **20)** That one of the reasons shown for change of alignment by the Expert as well as Committee is that the land in Sy.Nos. 282 and 283 of Poppalguda village which was the subject matter of the acquisition as per the earlier alignment was covered by huge hillocks and the	The objections of the petitioners at Sl.No. 30 has been considered and submit that the matter relates to Muski Cheru and Bagirathamma Cheru of Narsingi and Poppalguda villages respectively but not relates to lands under acquisition. The government have approved revised alignment of Outer Ring Road in G.O.Ms.No.8 Infrastructure & Investment Dept dated 12-12-2005 after considering several objections and aspects on the earlier alignment. The acquisition of notified lands is for public purpose and compulsory in nature and as such they were notified.

					Govt. will incur huge expenditure for clearance of hillocks is absolutely false and the said Hillocks are small in the Height and they can be easily removed at lower cost. **21)** It can be seen that in the first phase of ORR from Gachibowli to Shamshabad at Kothwalguda there are huge Hillocks for about 5 to 6 Kms with height ranging from 20 feet to 60 feet and now the said Hillocks are being removed by incurring expenditure for laying of the road and hence preferring to acquire water bodies in the present alignment to that of Hillocks in the earlier alignment on the ground of involvement of incurring of huge expenditure is highly illegal and unreasonable. **22)** Initially M/s MECON was engaged as a technical consultant for Outer Ringh Road Project and with technical advise rendered by it, the earlier alignment of ring road was finalized and consequently land was identified and the notification occurred in the earlier alignment of ring road, the Authorities could		

					have referred the same back to M/s Mecon and instead for the reasons best known to the Authorities the services of M/s NSS Associates and enquiries revealed and we believed the same to be true that the said consultants re not reputed at all and they have no past experience in the similar jobs. **23)** The reports furnished by the said 2 consultants did not contain any technical data and the same lacks statistics. Hence the reports re not valid and it cannot be looked into. **24)** The Authorities are making it a ground to justify and to protect their action for change of alignment by saying that at the time of earlier notification in April 2005 pertaining to earlier alignment, the junction of Phase-I & 2 at Poppalguda was not contemplated and the detailed design of the interchange, its dimensions and the area required for it was not available as the detailed project report was not prepared by then. **25)** The recommendations by an expert body is not sacrosanct		

					more so if does not reveal the facts since the experts failed to mention the details of Water bodies in the earlier alignment and further it failed to mention the existence of water bodies in the present alignment. **26)** The recommendations seem to be a comparative studying between the disadvantages of one alignment with the advantages of the other. This is obviously a doctored pattern to choose one over the other. The only scientific and by implication only non discriminatory method would be to compare of the advantages of both, the disadvantages of both and on a summary consideration thereof come to final conclusion on which of the two is to be implemented. **27)** The entire land acquisition proceeding seem to have proceeded on the presumption that the clearance from the Pollution control board is a formality. The Notification under section 4 and Declaration under 6 of the Act have all preceded the clearance of the project by the PCB.	

					28) The report dated 21-11-2006 submitted by the Executive Engineer (Tanks Division) on one hand and the reports of MRO and MPDO dated 14-11-2006 on the other hand are contrary to each other since the reports of MRO and MPDO states that there is no water body existing in Sy.No.291 and there is no fixed or registered ayacut under it and whereas the report of the E.E. stated that there is a disused canal existing and the earthern bund formed on the location in Sy.No.291 and the same has no structures like sluices, gates, surplus arrangements etc. We submit that there are bunds with maximum height around the water bodies in Sy.No.291, 298, 299 & 300 of Poppalguda village and further there are feeder channels, sluices with pacca granite constructions and our inspection revealed the same and further we have taken photographs and the same are filed herewith. **29)** The petitioners have requested to arrange for joint inspection of the water bodies in Sy.Nos.291, 298,	

					299 & 300 of Poppalguda village on any dated before 27-12-2006 and on such intimation, we are ready to present at the sport. We submit that the reports of MRO and MPDO, which stated that there is no fixed ayacut to the water body in Sy.Nos. 291 is not correct. On the other hand, the source of water of agricultural fields in Sy.Nos. 180 to 184 of Narsingi village is from the water body in Sy.No.291 of Poppalguda village, since the lands are situated on the village boundaries. **30)** Further when several feeder channels and sluices, bunds were damaged during the floods including the bund and feeder of channels of water body in Sy.No.291, the Irrigation Department called for tenders and the Authorities have got repaired various feeder channels and bunds in Poppalguda region including the feeder channels of water body in Sy.No.291 vide Proceedings No.EE/NTD/2001, dated -05-2001 and consequently, a contract was entered into with the contractor dated 24-5-2001	

					and estimate was given for repair of feeder channels of the subject tank and works were completed.	

SPECIAL DEPUTY COLLECTOR (L.A.)
Unit-VII, ORRP, HUDA,
Tarnaka, Hyderabad”

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[1] (2005) 7 SCC 627
[2] (2000) 7 SCC 296
[3] 2006 (2) ALD 342
[4] (1973) 2 SCC 337
[5] (1980) 2 SCC 471
[6] (1998) 6 SCC 1
[7] (2004) 8 SCC 14
[8] (2004) 8 SCC 453
[9] (2007) 6 SCC 634
[10] (2003) 4 SCC 485
[11] (1974) 4 SCC 3
[12] 1985 (2) ALT 84 (NRC)
[13] 1988 (1) ALT 32 (NRC)
[14] AIR 1997 SC 1236